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**REMARKS**

In the Office Action, the Examiner rejected claims 1-8, 12, 20, 21, 23, 24 and 37 under 35 U.S.C. § 103. This rejection is fully traversed below. In addition, the Examiner made the Restriction Requirement final and withdrew claims 9-11, 13-19 and 25-34 from consideration.

Claims 1, 12, and 20 have been amended to further clarify the subject matter regarded as the invention. New claims 38 and 39 have been added to the application. Accordingly, claims 1-21, 23-34 and 37-39 are pending. Reconsideration is respectfully requested based on the following remarks.

**RESTRICTION REQUIREMENT**

In the Office Action, the Examiner made the restriction requirement final. Applicants still protest the Restriction Requirement for the reasons given in the previous response, namely, because (a) the restriction is unreasonable tardy, and (b) there is no undue burden on the Examiner to continue to examine all claims in a single application.

The Examiner relies on MPEP section 811.02 as supporting the late stage restriction requirement. The Examiner is, however, incorrect in stating that the claims were not finally rejected. In fact, the newly restricted claims were finally rejected on June 13, 2005.

Although it is recognized that there is a new Examiner now working on this case, the Applicants should not have to bear the expense necessitated by a change in examiners. The most pertinent section of the MPEP is section 811 regarding time for making restrictions. Specifically, this section states: "[T]he examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops." Moreover, the sections goes on to state: "Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required."

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Clearly, the late stage restriction cannot be deemed to have been performed "as early as possible." Nor can it be reasonably said that further examination of all claims would be a serious burden when the Patent Office has already issued several Office Actions, including a final Office Action on the restricted claims.

Therefore, it is respectfully requested that the Restriction Requirement be withdrawn. If not withdrawn, Applicants intend to petition the Commissioner of Patents for reconsideration of this Restriction Requirement.

#### **INFORMATION DISCLOSURE STATEMENT**

The Information Disclosure Statement filed October 26, 2004 included a Form PTO-1449 which identified several references. The Applicants have not received back an initialed version of the Form PTO-1449 indicating consideration of the same. It is respectfully requested that the Examiner return a copy of the initialed version of the Form PTO-1449 for Applicants' records.

#### **REJECTION OF CLAIMS 1-8, 12, 20, 21, 23, 24 and 37 UNDER 35 USC 103**

In the Office Action, claims 1-8, 12, 20, 21, 23, 24 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ralston et al., U.S. Patent 6,389,454, in view of "Russell Information Sciences brings the first real-time scheduling solution to the World Wide Web." (hereinafter referred to as "Russell"). Applicants respectfully disagree.

Claim 1 pertains to a computer-implemented method for providing an on-line appointment between a service provider and a user who is interested in a service the service provider may be able to provide.

Among other things, claim 1 recites:

- (a) receiving a request for appointment availability of the service provider during a time period;
- (b) determining available appointment times within the time period for the service provider through use of a central appointments server having access to a central appointment

database that stores calendars for various service providers,  
including a first calendar for the service provider;

...

(e) setting the on-line appointment between the user and the  
service provider at the selected appointment time,

Hence, claim 1 pertains to a user using an on-line appointment system to schedule an appointment with a service provider. In Ralston et al. the described method is for scheduling an appointment with a facility, namely, a medical facility for some procedure. Ralston et al. at col. 5, lines 27-32 states: "Thus, the scheduling server 80 generates the appointment candidates by communicating with the organization's remote schedule servers 38, 48 58, which in turn communicate with the organization's facilities 35, 45, 55 to determine which of the facilities are available to provide the requisite services at the preferred data and time." Hence, Ralston et al. fundamentally fails to teach or suggest making an appointment with a service provider as recited in claim 1. For example, Ralston et al. does not teach or suggest receiving a request for appointment availability of a service provider during a time period. Ralston et al. also does not teach or suggest accessing a central appointment database that stores calendars for various service providers. Nor does Ralston et al. teach or suggest setting an appointment between a user of the on-line appointment system and the service provider at a selected appointment time.

In addition, claim 1 recites: "checking another calendar of the service provider to determine if there is a conflict between the first calendar and the another calendar due to the selected appointment time...." Here, the Examiner admits that Ralston et al. fails to teach such checking of another calendar. Nevertheless, to overcome this deficiency of Ralston et al., the Examiner combines Ralston with Russell. At best, Russell mentions that it "enables Internet users to instantly schedule conflict-free meetings from anywhere on the world through a standard Web browser." As to conflict-free scheduling, Russell also states: "In addition to displaying up to 52 weeks of a user's schedule at a time, the powerful proxy feature streamlines meeting planning by allowing users to simultaneously view multiple calendars." Russell is thus unable to teach or suggest the checking operation of claim 1. First, the checking operation in claim 1 is computer-implemented

as opposed to the manual scheduling performed by a user in Russell. Second, the checking in claim 1 operates to check a first calendar for a service provider with another calendar of the service provider. That is, both the calendars are for the same service provider. Russell does not teach or suggest checking for conflicts between two calendars of the same person. For at least these reasons, it is submitted that claim 1 is patentably distinct from Ralston et al. alone or in combination with Russell.

For reasons similar to claim 1 provided above, it is submitted that claim 12 is patentably distinct from Ralston et al. alone or in combination with Russell.

Claim 20 pertains to an on-line appointment system that supports a large number of users in making appointments over the Internet. Among other things, claim 20 recites: "a synchronization application that provides for automated review of an appointment that has been scheduled to determine whether the scheduled appointment conflicts with at least one entry in a local software calendar of one of the service providers, where the appointment database also provides a calendar for that service provider...." . Since Ralston et al. is admittedly deficient in teaching the synchronization manager of claim 20, the Examiner again relies on Russell. However, Russell is unable to teach or suggest the synchronization application and its associated conflict checking operation. First, the conflict checking in claim 20 is automated by way of the synchronization application of the on-line appointment system. In contrast, Russell teaches and suggests only manual scheduling performed by a user. Furthermore, the conflict checking operation in claim 20 operates to check a calendar for a service provider provided by the appointment database with another calendar, namely, the local software calendar, of the service provider. That is, both the calendars are for the same service provider. Russell does not teach or suggest checking for conflicts between two calendars of the same person. For at least these reasons, it is submitted that claim 20 is patentably distinct from Ralston et al. alone or in combination with Russell.

Based on the foregoing, it is submitted that claims 1, 12 and 20 are patentably distinct from Ralston et al. alone or in combination with Russell. In addition, it is submitted that dependent claims 2-8, 21, 23, 24 and 37-39 are also patentably distinct for at least the same reasons. The additional limitations recited in the independent claims or

the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from Ralston et al. and/or Russell. Thus, it is respectfully requested that the Examiner withdraw the rejection of claims 1-8, 12, 20, 21, 23, 24 and 37 under 35 USC § 103(a). Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned representative at the telephone number listed below.

Respectfully submitted,



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